

## 16 Is Election Fair?<sup>1</sup>

In any discussion of the First Testament's theological value and values, the annihilation of the Canaanites comes up sooner rather than later. It seems that Yahweh's liberation of the Israelites to freedom in Canaan is also Yahweh's oppression of the Canaanites. For all the rationale of Deut 9:4-6 with its statement about their waywardness, they did not deserve this experience more than other peoples. Their annihilation was an act sitting in tension with the commitment to justice that Yahweh claims and expects of Israel. Rolf P. Knierim suggests we have to choose between the theology of exclusionary election and the theology of inclusive justice, and must surely then choose the latter as the more comprehensive framework for First Testament theology.<sup>2</sup> Is Yahweh fair? Is election fair?

### 1 Election in a Theological Context

There is a more formal and a more substantial aspect to the problem. The formal aspect is that Israel's distinctive election is a central and pervasive theme in the First Testament. Throughout its narrative framework, in Genesis to Kings and in Ezra-Nehemiah and Chronicles, for instance, Israel is the special people of Yahweh in a way that Canaan, for instance, is not. Thus H. D. Preuss made the theme of election the organizing principle for his *Old Testament Theology*.<sup>3</sup> Even if Israel's distinctive election is a mistaken concept, one cannot realistically suggest it is an unbiblical concept. "God did not specially elect Israel from among other peoples" is no more a statement that can appear in a First Testament theology than is "God does not exist" or "Yahweh is not God."

The more substantial aspect to the problem heightens the stakes on the question whether the idea of Israel's distinctive election is mistaken. Abandoning this idea significantly affects (I would say skews) not only the content of First Testament theology, but that of New Testament theology, of Christian theology, and of Jewish theology. Thus whereas J. D. Levenson attributes Knierim's slant to his Christian commitment,<sup>4</sup> R. K. Soulen's study of *The God of Israel and Christian Theology*<sup>5</sup> points to a forceful critique of it from a Christian angle. If the existence of the Jewish people is a matter of indifference to the God of Israel, this "introduces a note of incoherence into

<sup>1</sup> First published in Wonil Kim and others (ed.), *Reading the Hebrew Bible for a New Millennium* (Harrisburg, PA: Trinity, 2000) 1:169-87.

<sup>2</sup> See *The Task of Old Testament Theology* (Grand Rapids: Eerdmans, 1995), e.g., pp. 450-52; further, Robert Allan Warrior, "Canaanites, Cowboys, and Indians," *Christianity and Crisis* 49 (1989-90): 261-65 and often anthologized; the comments by D. Jobling and C. Rose on "Canaanite Readings" of the First Testament in "Reading as a Philistine," *Ethnicity and the Bible* (ed. M. Brett; Leiden/New York: Brill, 1996), pp. 381-417 (see p. 381); more systematically, Michael Prior, *The Bible and Colonialism* (Sheffield: Sheffield Academic Press, 1997); from the Palestinian angle, Naim S. Ateek, *Justice, and Only Justice* (Maryknoll, NY: Orbis, 1989).

<sup>3</sup> Two vols; Louisville: WJK/Edinburgh: Clark, 1995 and 1996.

<sup>4</sup> See his review in *Religious Studies Review* 24 (1998): 39-42.

<sup>5</sup> Minneapolis: Fortress, 1996.

the heart of Christian reflection about God.<sup>6</sup> He notes that there have been two periods when the status of Israel has forced itself on Christian theological reflection, the original separating of the church from Israel and the recent events of the Holocaust and the establishment of the state of Israel. The period in between was the period of Christendom, which Soulen sees as characterized not only by triumphalism in relation to the Jewish people but also by “a latently gnostic assessment of God’s engagement in the realm of public history.”<sup>7</sup>

Knierim does not take the classic Christian position of supersessionism, the view that the church replaced Israel in God’s purpose. He abjures anti-Semitism and knows that we have to do theology in the light of the Holocaust.<sup>8</sup> But his position does resembles the one Soulen associates with Immanuel Kant and Friedrich Schleiermacher that God never had entered into a special relationship with the Jewish people, so that its continuing existence became a matter of theological indifference. Kant believed that the Jewish people’s conviction of its own exclusive election was one of the features of its faith that made it unable to function as a universal moral religion.<sup>9</sup> There is thus a Jewish affirmation of Knierim’s position; in due course we will note another, Judith Plaskow’s.

There is also more Jewish critique of it. Soulen does his work in dialogue with that of Michael Wyschogrod, in particular his book *The Body of Faith: God in the People Israel*.<sup>10</sup> The foundation of Wyschogrod’s theology is not (for instance) the Torah but “his affirmation of God’s free, irrevocable election of Israel as the people of God.”<sup>11</sup> Despite its exclusiveness, for Wyschogrod that election expresses God’s affirmation of humanity in its fullness. “God confirms the human creature as it was created to live in the material cosmos.”<sup>12</sup> Israel is “the carnal anchor that God has sunk into the soil of creation.”<sup>13</sup>

“But why should God be God of election at all? Does not God love all persons equally?”<sup>14</sup> Wyschogrod’s answer is that “undifferentiated love” cannot be love that meets individuals in their individuality; that kind of love requires exclusivity.<sup>15</sup> By electing Abraham and his seed, God has chosen in favor of genuine encounter with human creatures in their concreteness. “The distinction between Jew and Gentile – far from indicating a limit or imperfection of God’s love – testifies to God’s willingness to engage all

<sup>6</sup> *The God of Israel and Christian Theology*, p. 4.

<sup>7</sup> *The God of Israel and Christian Theology*, p. x.

<sup>8</sup> *The Task of OT Theology*, pp. 311, 452.

<sup>9</sup> See, e.g., *Religion Within the Limits of Reason Alone* (New York: Harper, 1960), p. 117; quoted by Soulen, *The God of Israel and Christian Theology*, p. 64. Cf. Levenson’s comments on “Enlightenment rationalism” (*Religious Studies Review* 24:41), and F. Crüsemann’s comments on “Human solidarity and ethnic identity” in *Ethnicity and the Bible*, pp. 57-76 (see pp. 57-58).

<sup>10</sup> San Francisco: Harper, 1983.

<sup>11</sup> Soulen, *The God of Israel and Christian Theology*, p. 5.

<sup>12</sup> *The God of Israel and Christian Theology*, p. 6.

<sup>13</sup> *The Body of Faith*, p. 256.

<sup>14</sup> Soulen, *The God of Israel and Christian Theology*, p. 7.

<sup>15</sup> *The Body of Faith*, p. 61; Soulen, *The God of Israel and Christian Theology*, pp. 7-8.

creation on the basis of divine passion.”<sup>16</sup> A friend recently wrote to my wife and me and ended “with all my love.” This might seem hard on her husband and sons. Yet there can be something about love that makes it not necessarily exhaust itself when given wholly to one person; it can mysteriously self-regenerate and multiply in the giving so that it pours out over others than the original object.

Perhaps something like this is presupposed by a comment in *Sifre* on Deuteronomy, chapter 40. God cares for the land of Israel (Deut 11:12). Does this mean God does not care for other lands? Job 38:26-27 excludes this. So Deuteronomy implies that God cares not only for this land, “but because of His care for it He cares for all the other lands along with it.” Similarly God “keeps” Israel; and Job 12:10 sets all nations in God’s keeping. So God keeps not only Israel, “but because He keeps them He keeps every other nation along with them.”<sup>17</sup> Wyschogrod sees this as implicit in Gen 12:1-3. And he sees God’s plan to some degree to have worked. Nations have come to experience humanity and history (and justice and righteousness, to revert to Knierim’s concerns) with Jewish categories, as an outworking of God’s distinctive love for Israel and God’s love for other peoples.

In principle, then, the particularistic election of Israel and a concern for universal justice and righteousness can work together. There is no inherent tension between them. First Testament theology does not have to choose between them.

## 2 *Mishpat Usedaqah*

The same point emerges from a consideration of the use of *mishpat usedaqah* in the First Testament, which indeed becomes an alternative way of making the same statement.

Expressions such as “justice and righteousness” have become standard English equivalents to the hendiadys *mishpat usedaqah*, but they are unsatisfactory equivalents. Both “justice” and “righteousness” are abstract nouns; *mishpat* and *sedaqah* are not. Set over against each other, “justice” suggests something about equal relationships in society, while “righteousness” suggests personal right living. This bears inadequate correspondence to the Hebrew expression. Set alongside each other and understood as a hendiadys denoting “social justice,” the words suggest the combination of fairness that treats everyone alike, and conformity to some norm of rightness. This bears little more relationship to the Hebrew expression. Whatever *mishpat usedaqah* means, it is not “justice and righteousness.”

“Just judgment”<sup>18</sup> is a better equivalent, though the “judgment” is not confined to judicial decisions. Whereas “social justice” is an abstract expression, *mishpat* and *sedaqah* are both commonly used as concrete nouns. One cannot “do [a] social justice” as one can “do a *mishpat*” or “do a *sedaqah*.” Characteristically, *mishpat* suggests the declaring and

<sup>16</sup> Soulé, *The God of Israel and Christian Theology*, p. 8, summarizing Wyschogrod, *The Body of Faith*, pp. 63-65.

<sup>17</sup> *Sifre: A Tannaitic Commentary on the Book of Deuteronomy* (New Haven/London: Yale UP, 1986), p. 79; cf. Soulé, *The God of Israel and Christian Theology*, p. 129.

<sup>18</sup> Knierim, *The Task of OT Theology*, p. 121.

implementing of a decisive judgment, while *sedaqah* denotes the quality of some act, the way it fits into a worldview and a set of relationships that possess among other things some moral and social order. Together *mishpat* and *sedaqah* thus form a powerful combination. They point to an exercise of authority that has a certain relational and social commitment and to a certain relational and social vision that expresses itself in decisive action. While they operate in the court, they also operate in government and in community relationships. Neither refers directly either to “justice” or to “righteousness.”

Whereas “righteousness” suggests conformity to a norm or standard, then, *sedaqah* is a relationship word. That is implicit in its first appearance in scripture. Abraham manifests a strange willingness to trust Yahweh’s word against the odds, though with a little evidence from the events of which we have read in the previous three chapters. And Yahweh counts this as *sedaqah* (Gen 15:6). This is not a legal fiction whereby he is treated as if he had lived by the norms of right living when he had not. Rather it is Yahweh’s declaration that such trust counts as *sedaqah*.<sup>19</sup> This fits Klaus Koch’s contention that *sedaqah* is closely related to faithfulness and loyalty, especially faithfulness and loyalty that go beyond the call of duty.<sup>20</sup> Believing Yahweh’s outrageous word is the expression of such faithfulness and loyalty that Yahweh approves. In Yahweh’s own case, terms parallel to *saddiq* are *khannun* and *khasid*.<sup>21</sup> Conversely, in Rom 9:14 Paul bases his denial that God manifests *adikia* on the fact that God has carried on showing mercy and compassion to Israel. If that involved unfairness to Esau or to Pharaoh, this is irrelevant to the question whether God is *dikaios*.<sup>22</sup> Being *dikaios* is a matter of being faithful. Likewise Tamar’s status as relatively *sadeq* (Gen 38:26) is intelligible on the basis of an understanding of *sedaqah* that links it with relationships in the community rather than directly with moral norms.

In contrast to *sedaqah*, *mishpat* is more inherently a matter of the exercise of power or authority. It does presuppose a concern for harmony and order in the community; the use of the word “judgment” in English to denote wisdom and insight parallels the way a word for giving authority can presuppose that authority is exercised properly. Thus *mishpat* used on its own can imply “just judgment” (see Isa 1:17; 32:7; 59:8; 61:8; Jer 7:5; 10:24; 17:11; Mic 3:9; Prov 12:5; 13:23; 16:8, 11). The First Testament can similarly use the verb *shapat* to speak of judging the needy and the oppressed, in the sense of taking fair action on their behalf (e.g., Isa 1:17, 23; Pss 10:18; 72:4; 82:3). Yet in itself *shapat* simply means “govern,” “rule,” or “exercise authority,” as *mishpat* signifies authority in action; it often appears alongside words such as *hoq* and *miswah* (law, command). Thus the connotation “just judgment” is usually made explicit through the pairing of *mishpat* with some other word such as *sedaqah*. This specifies

<sup>19</sup> Actually it is not clear whether Yahweh or Abraham does the counting; if the latter, then Abraham is taking Yahweh’s word as a commitment to *sedaqah*. My point here is not affected.

<sup>20</sup> See Ernst Jenni and Claus Westermann (ed.), *Theological Lexicon of the Old Testament* (Peabody, MA: Hendrickson, 1997), pp. 1046-62.

<sup>21</sup> Koch, *Theological Lexicon of the OT*, p. 1057.

<sup>22</sup> See J. D. G. Dunn, *Romans 9-16* (Dallas: Word, 1988), p. 551.

that the exercise of such authoritative judgment recognizes that the problem in the community was not merely an individual wrong but a breakdown in the harmonious order of the community and that it is designed to restore this. The word *din*, similarly, can require the adjective *yatom* (Jer 5:28) or can in itself suggest not merely legal judgment but fair legal judgment (Isa 10:2).

The fact that *mishpat* refers inherently to decisive action more than to just action is further reflected in Leviticus's talk of *mishpat* being exercised in a way that reflects '*awlah*, wrong not right. That comes about when those who are involved in *mishpat* favor either poor people or important people (Lev 19:15; cf. Prov 24:23; the verb in Mic 3:11; Ps 58:2 [1]), or when they cheat in business (Lev 19:35). The striking prohibition on favoring the poor suggests that the stress elsewhere on judgment for the poor implies a concern for them to get their rights, not an arbitrariness about law. Elsewhere, the positive comment regarding the king is that he does not trespass in *mishpat* (Prov 16:10), though this is a statement of hope; in practice, when he exercises *mishpat*, he may do so in a way that involves trespass. Judges will certainly exercise *mishpat*, but it is an open question whether this will be *mishpat-sedeq*, to use the interesting construct phrase in Deut 16:18 (cf. Ps 119:160; also Ps 119:7, 62, 106, 164 in the plural).<sup>23</sup> There are related verbal expressions in Deut 1:16; Isa 11:4; and Prov 31:9, while the similar phrase *mishpat 'emet*, true judgment, appears in Ezek 18:8 and Zech 7:9. Instead of exercising such just *mishpat*, judges may rather bend or twist *mishpat* (Deut 16:19; cf. Hab 1:4; Prov 17:23; 18:5). It is a sign of degeneration when *mishpat* springs up like poisonous weed (Hos 10:4).<sup>24</sup> It is *sedeq* alone that the community is to pursue when it exercises *mishpat* (Deut 16:20). No tautology is involved in declaring that Yahweh's *mishpatim* have the quality of being *sadeq* (Pss 19:9 [10]; 119:75); one could not speak of *sedaqah* being exercised in a way that reflects '*awlah*.

So *mishpat* refers directly not to "justice" but to the exercise of authority or power or capacity or willingness to take decisions or to take decisive action. The point is further illustrated by the Torah's four references Yahweh's *mishpatim* in Egypt. Twice the focus is on *mishpatim* on behalf of Israel (Exod 6:6; 7:4). Twice the focus is on *mishpatim* upon Egypt's gods (Exod 12:12; Num 33:4). In none of these passages is the notion of justice present. The idea is that Yahweh will act decisively for or against bringing freedom or exposure.

Apart from this, neither the Torah nor Joshua ever use *mishpat* or *sedaqah* or related words in connection with the Israelites' deliverance from Egypt or their occupation of Canaan, even though a passage such as Exod 3 does see Israel's deliverance as a response to its *se'aqah* (outcry). The language of *mishpat* and *sedaqah* is applied to Israel first in connection with

<sup>23</sup> Cf. Knierim, *The Task of OT Theology*, pp. 118-9. M. Weinfeld in *Social Justice in Ancient Israel and in the Ancient Near East* (Jerusalem: Magnes/Minneapolis: Fortress, 1995), pp. 33-34, says that *mishpat sedeq* ("a righteous judgment") is to be distinguished from *mishpat usedaqah*, which signifies "social justice."

<sup>24</sup> G. Fohrer's brisk emendation to *mispah* (cf. Isa 5:7) is a sign that there is a problem here with the assumption that *mishpat* means "justice"; see "Der Vertrag zwischen König und Volk in Israel," *ZAW* 71 (1959): 1-22 (see p. 17).

the deliverance of Israelite clans from their oppressors in the book called *shopetim*, Judges. Deborah's expression for such acts of deliverance is *sidqot*, though these can be described as Yahweh's or as Israel's (Judg 5:11). Samuel picks up the word (1 Sam 12:7) and in his elaboration does include reference to the exodus, though intriguingly here it is not Yahweh at all who delivers Israel; Yahweh sends Moses and Aaron and they bring Israel out of Egypt and into Canaan, despite being dead for the latter event.

It is in the afore-mentioned Deut 9:4-6 that the Torah comes closest to declaring that Israel's occupation of Canaan is an act of *sedaqah*, though even here it does not actually say this. On the one hand, Israel's possession of the land does not issue from its *sedaqah*. On the other, it does issue from the other nations' *resha'*, the antonym of *sedaqah*, and it reflects Yahweh's faithfulness to the promise given to Abraham (which would make it an expression of *sedaqah*). In what way it relates to the nations' *resha'* is unstated. Elsewhere the Canaanites' wickedness is in itself the cause of their loss of their land (see, e.g., Lev 18:24-30), but the context in Deut 9 more likely implies that the wickedness of the Canaanites leads to their being removed lest they mislead Israel.<sup>25</sup>

As Joshua makes clear, the Israelites did not actually annihilate the Canaanites; furthermore, these statements in Deuteronomy were formulated some centuries after Moses' and Joshua's day, though it is hazardous to base any arguments on any view regarding their actual origin. Nevertheless we can be sure enough that they come from a period when their audience had no prospects of actually annihilating the Canaanites (if Canaanites existed) in the way Deuteronomy enjoins. While the mere question whether Joshua is fact or fiction may make little difference to the theological significance or status of its stories about annihilation, the vision that the factual or fictional narrative sets before its audience will vary according to their circumstances. In the late sixth century, for instance (when orthodox critical theory dated the bulk of Deuteronomy), Israel as represented by the people led by King Josiah is a tiny community with little prospect of playing a significant part in Middle-Eastern history, while in the late sixth or fifth century (when the Torah reached the form we have it) the community that appears in Isa 56 – 66, Haggai, Zechariah, Malachi, Ezra, and Nehemiah is even more embattled over against its context. This community's much-despised ethnocentricity looks very different when one belongs to a marginal ethnic group struggling for survival than it looks to secure, mainstream members of a liberal society, and it is to be evaluated differently on the part of minority groups trying to maintain identity than it is on the part of groups with power.<sup>26</sup> Conversely, "when Jews have known relative freedom... they have found it easy to express broadly and comprehensively the world-wide dream of their people. The literature of ancient Alexandria and the Moslem-Jewish symbiosis gives ample evidence of that," as does modern Judaism.<sup>27</sup>

<sup>25</sup> See Knierim, *The Task of OT Theology*, p. 98.

<sup>26</sup> See M. Brett, "Interpreting Ethnicity," in *Ethnicity and the Bible*, pp. 3-22 (see pp. 16-20), with his references. Cf. D. L. Smith-Christopher's comments in the same volume, "Between Ezra and Isaiah," pp. 117-42 (see pp. 122-23).

<sup>27</sup> E. B. Borowitz, "The Dialectic of Jewish Particularity," *Journal of Ecumenical Studies* 8 (1971): 560-74 (see p. 564).

### 3 So Is Yahweh Fair?

The Canaanites may have been *resha'im*, but hardly more so than many other peoples, and it is therefore difficult to maintain that Yahweh's judgment is just in the sense of treating all peoples alike in the way that Yahweh's own commands require of Israel. Is it the case that "an interpretation of the conquest that ignores the cry of the Canaanites for help, a cry not represented in the Old Testament because it pleads only Israel's case, is in fundamental conflict with the Old Testament understanding of God as the just and merciful judge"?<sup>28</sup>

The Torah does raise the question whether Yahweh's treatment of other peoples is always fair. While it does not refer to Yahweh's acts of *mishpat* or *sedaqah* in relation to Israel, it includes an intriguing reference to Yahweh's *sedaqah umishpat* in relation to Sodom. Genesis 18 is as suggestive for theological reflection as for prayer.<sup>29</sup> It might aid theological reflection on Yahweh's dealings with Israel, but it more overtly does that in relation to Yahweh's dealings with other peoples, and specifically with the earlier inhabitants of Abraham's promised land. Here in its first appearance in the First Testament *sedaqah umishpat* is related to Yahweh's promise to Abraham and also to the intention that Abraham's blessing be significant for all nations. Abraham is responsible for *sedaqah umishpat*. This is not a surprising suggestion, for we have already heard of Abraham's *sedaqah* (Gen 15:6), the word's first occurrence in scripture. The passage was also the first time we were taken inside Abraham's mind and told something other than what he did. Confronted by Yahweh's promise of progeny, Abraham trusted Yahweh and Yahweh counted this as *sedaqah*.<sup>30</sup>

In Gen 18 Abraham and his family are to put *sedaqah umishpat* into effect, and thus keep Yahweh's way, which implies Yahweh's claim that *sedaqah umishpat* are Yahweh's way. The nouns come in the reverse of the usual order, suggesting "rightness that is expressed in decisive action" rather than "decisive action that expresses rightness," but I have not been able to see any significance in this (cf. Ps 33:5; Prov 21:3; Hos 2:21 [19]; Pss 89:15 [14]; 97:2 have *sedeq umishpat*, Ps 103:6 *sedaqot umishpatim*).

Doing *sedaqah umishpat* is here associated with the promise that Abraham's family will become a great and powerful nation and that all the nations of the earth will "bless themselves by him" (Gen 18:18). The verb *barak* is niphil as in 12:3; 28:14, not hitpael as in 22:18; 26:4. This might imply that the meaning is passive rather than reflexive, which would strengthen the argument that follows, but I am content to suppose that the two verb forms are rhetorical variants and that the meaning is reflexive. The nations are to "pray to be blessed as he is blessed" (NEB) rather than explicitly "to be blessed" (NRSV, TNIV). The promise that Abraham will become a standard for blessing puts the emphasis on the magnitude of blessing for Abraham rather than directly on hope for other peoples. Nevertheless the promise implies that a prayer for Abraham-like blessing would be a reasonable prayer for a nation to pray, a prayer to which

<sup>28</sup> Knierim, *The Task of OT Theology*, p. 318.

<sup>29</sup> Indeed, Walter Brueggemann has posited that it was intended thus: ee his *Genesis* (Philadelphia: Westminster, 1982), pp. 162-77.

<sup>30</sup> The point would need reexpressing on the alternative understanding of Gen 15:6 noted above, but it would still hold.

Yahweh might be expected to respond positively. If Yahweh were instead to respond by questioning whether the dogs can have the children's food, a Canaanite woman will be able to suggest an answer (see Mark 7:24-30).

The expectation that Yahweh might be expected to respond positively to such a prayer is supported by the context on both sides of Gen 18:18-19. On one hand, Gen 1 - 11 has been concerned with God's blessing of all peoples and with the question whether that blessing will ever find realization, and the first statement of Yahweh's promise to Abraham in Gen 12:1-3 follows directly on those chapters. Yahweh's promise to Abraham presupposes a concern for the whole world. Then on the other hand, the very prayer for Sodom that follows in Gen 18:1-21 presupposes an interest in all peoples.<sup>31</sup> Even if Sodom becomes a figure for Jerusalem (Isa 1:9-10), perhaps like Jonah's Nineveh,<sup>32</sup> it is hardly merely that.

The story speaks of a particularly loud outcry against Sodom (Gen 18:21; 19:13). Such an outcry (*se'aqah*) is the opposite to what is right (*sedaqah*); compare Isa 5:7. So Yahweh will take action against Sodom and thus deliver those it oppressed. Abraham's question is then whether this is actually a way Yahweh can go about being a *shopet*, a person in authority. "Shall not the *shopet* of all the earth do *mishpat*?" he asks (Gen 18:25). It is a strikingly-formulated question, though commentators seem not to have noticed, and translators let the reader off the hook by having Abraham ask whether the judge of all the earth must not do justice; we then read it as if Abraham had asked whether the judge must not do *sedaqah*.

From Abraham's angle, it might seem that the last thing Yahweh needs is a challenge to do *mishpat* if that indeed means merely "decisive action"; God is already on the way to being decisive, and this is what worries Abraham. More likely "do *mishpat*" indeed has its common implication "take action on behalf of the righteous or needy" (see, e.g., 1 Kings 3:28; Ps 9:17 [16]). Thus *mishpat* does here imply judgment that reflects *sedaqah*. Whereas elsewhere the point is often explicit through the addition of the word *sedaqah* to *mishpat*, on other occasions it is made explicit through mention of the objects or beneficiaries of the action, and here they have just been mentioned. Abraham's point is then, "you have to take action that reflects concern for the righteous in Sodom as well as for the oppressed elsewhere."

So what would Abraham say about the Canaanites? He knows that Yahweh's giving the land of Canaan to Israel is part of a purpose designed to benefit other nations as well as Israel; in Gen 18 Yahweh recognizes the need to maintain a concern for the righteous within a wicked nation. Genesis 15:16 contains a more overt response. Yahweh intends to keep the promise regarding giving the land of Canaan to Abraham's descendants, but not until the '*awon* of the Amorites is full. Do Genesis and Deuteronomy imply a conviction that the Canaanites' waywardness was greater than that of other peoples? Such knowledge as we have from other sources does not suggest that they were more depraved than other contemporary peoples or the present inhabitants of southern California. But we are familiar with the way peoples do demonize each other, especially if they need to justify their

<sup>31</sup> Cf. Knierim, *The Task of OT Theology*, pp. 319-20.

<sup>32</sup> See R. E. Clements, "The Purpose of the Book of Jonah," *Congress Volume: Edinburgh 1974* (VTSup 28; Leiden: Brill, 1975), pp. 16-28.

own attacks on them. J. D. Levenson makes this point in asking “Is There a Counterpart in the Hebrew Bible to New Testament Antisemitism?”<sup>33</sup> He sees such a counterpart in the way the Hebrew Bible “caricatures” the Canaanites in order to justify Israel’s displacement of them. Judith Plaskow offers a parallel Jewish feminist critique of Wyschogrod and of election theology in general.<sup>34</sup> The feminist vision for diversity without hierarchy parallels Knierim’s vision for the particular without particularism. Plaskow associates Jewish election theology with patriarchalism; election is a “fundamentally hierarchical” notion.<sup>35</sup>

Yet Plaskow also notes that election and exclusiveness need not belong together. Judaism has not spoken or behaved as if its election made it feel superior to the rest of the world. It has been the victim of such views rather than the subject of them. The Torah’s explicit emphases make it not surprising if Judaism lacks a sense of superiority, for the context of Deuteronomy’s statement about Canaanite wickedness is a denial of Israelite superiority. Something indefinable attracted Yahweh to Israel. Whatever this was, it was neither Israel’s numeroseness nor its *sedaqah* (Deut 7:7-8; 9:4-6); rather the opposite (see 9:7-8 and the passage that follows). Further, the idea that the notion of superiority and domination is key to Israel’s understanding of its relationship with Canaan is difficult to fit with its explicit understanding of the annihilation of the Canaanites as a dedication of them to Yahweh (*kherem*). If the latter is some kind of veil for the former, it is one that subverts it.

Additional significance attaches to those statements in Deut 7 – 9 given that a handful of passages in that context (Deut 4:37; 7:6, 7; 10:15; 14:2) are actually the only ones in Genesis-Joshua that refer to Yahweh’s choice of Israel (cf. later 1 Kings 3:8; Neh 9:7). Even if this is a presupposition of the books, the language is exceptional; it does not even come in Deut 9.

The theme of election can indeed be present when the word is not. NRSV presupposes this in rendering the verb *yada’* by “choose” at Gen 18:19. It might have done the same in rendering Jeremiah’s account of his “call” (another construct that we import into the Bible) where he speaks of Yahweh acknowledging him, distinguishing him, and then appointing him to a task (Jer 1:5). In Isa 40 – 55 it is the verb *qara’* (call/summons) that more often denotes what theology refers to as election. This language underlines the fact that Yahweh’s choosing Israel as much resembles a master’s summoning a slave or a cook’s choosing which pan to use as it does a woman’s choosing a man on whom to bestow her love.

It is doubtful whether in Isa 40 – 55 or anywhere else (except Isa 66:19?) we should speak of Israel’s being called to a “mission” to the nations (yet another construct from outside the Bible). The suggestion that Israel is elected for service is also too easy an oversimplification, for Israel remains God’s chosen even when it fails to serve, while conversely serving Yahweh does not make one a member of Israel.<sup>36</sup> Yet if Israel is indeed

<sup>33</sup> *JEcS* 22 (1985): 242-60, esp. pp. 248-52. See also “The Universal Horizon of Biblical Particularism” in *Ethnicity and the Bible*, pp. 143-69.

<sup>34</sup> See *Standing Again at Sinai* (San Francisco: Harper, 1990), esp. pp. 75-120.

<sup>35</sup> *Standing Again at Sinai*, p. 99.

<sup>36</sup> Cf. Levenson, *Ethnicity and the Bible*, pp. 155-57.

called, summoned, or chosen by Yahweh (e.g., Isa 41:9), then it is as a servant.

We thus need to be wary of reading into the books all that we might mean by the notion of election when their own language works in a different way and points to an idea with different dynamics. This is the more so when we take account of the theological point that is made by explicit talk in terms of choice here and elsewhere. In Deut 7:6-7, for instance, the point is not at all to encourage Israelite superiority, but to underline a demand for a distinctive Israelite commitment to Yahweh (cf. Deut 10:15; 14:2). In 1 Kings 3:8 it is to underline the demand that leadership lays on the king. In Isa 40 – 55 it is to encourage a people oppressed by a much more powerful overlord. Of a piece with this is the conviction that an awareness of being especially loved by its God (knowing itself chosen) has played a key role in keeping the Jewish people going over subsequent millennia; even Israel's sin will not cancel out its election, because Israel's righteousness was not the basis of its election in the first place.<sup>37</sup>

Perhaps Plaskow is right that election is an inherently particularist notion, and that is one significance of the First Testament's restraint in explicit use of this language even though it talks more broadly about Israel's special relationship with Yahweh. But we need also to note that election talk's openness to ideological misuse does not in itself establish that there is a question mark about the actual notion of election. Practically everything is open to ideological misuse.<sup>38</sup> Plaskow instances the call to obey the Torah, which can encourage "empty legalism,"<sup>39</sup> even as a stress on God's grace can encourage antinomianism (see Rom 6; cf. Jas 2). Regina Schwartz has emphasized monotheism's potential to encourage the same violent exclusivism as election, though it is not clear why polytheism would be less open to this temptation.<sup>40</sup> The counter to bad election theology need not be no election theology but the good election theology that Knierim approves, election theology that links election with inclusiveness not exclusiveness, with responsive commitment and a desire to share.

Another instance of election thinking that does not utilize the actual word is the use of the notion of Yahweh's unexplained favor (*khen*: e.g., Gen 6:8). J. M. G. Barclay has suggested that "Paul partially deconstructs his own Christological exclusivism by his pervasive appeal to the grace of God."<sup>41</sup> If "finding favor with Yahweh" is another way of speaking of election, then it is striking that the Torah never refers to Yahweh's favor to Israel but does refer to Yahweh's favor to Noah. Along with its assertion that Yahweh's favor is exercised at Yahweh's discretion (Exod 33:19), the Torah similarly deconstructs any exclusivism it implies.

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<sup>37</sup> See Wyschogrod, *The Body of Faith*, pp. 12, 24-25, 213.

<sup>38</sup> Cf. the remarks of D. Boyarin, *A Radical Jew* (Berkeley/London: University of California, 1994), pp. 247-48.

<sup>39</sup> *Standing Again at Sinai*, p. 217.

<sup>40</sup> See *The Curse of Cain* (Chicago/London: University of Chicago, 1997), with Miroslav Volf's review in *Christianity Today* 27 April 1998, pp. 32-35.

<sup>41</sup> "'Neither Jew nor Greek,'" in *Ethnicity and the Bible*, pp. 197-214 (see p. 213).

## 4 The Harnessing of Unfairness

The fact that peoples do demonize and caricature each other is not in itself evidence that Israel did so and that the Israelite account of the Canaanites is wrong, and it may be that the latter's religion and life incorporated a distinctively appalling combination of features such as the sacrifice of children, the ritualization of sexual activity, and oppressiveness in the society. But let us suppose that the Canaanites were only averagely wicked. What happens to them is not fair compared with what happens to other people. Yet what happens to them is only a spectacular example of a phenomenon that recurs in the First Testament and in life. There is a randomness about whether people get their comeuppance. If you are in the wrong place at the wrong time, you experience the disaster you deserve (or do not deserve). If you are lucky, you do not. Most generations of Canaanites, indeed, were not annihilated by the Israelites, in fact or fiction. Most generations of Judean leadership did not get transported to Babylon, even though they may have deserved it quite as much as the generation of Jehoiachin and Zedekiah.

The experience of nations in general often seems unfair, as the experience of individual human beings seems unfair. This was as much so for Israel as for any other people: it "has endured its history much more than it has shaped it."<sup>42</sup> This had been the case with Israel before the exodus, and it would in due course seem to be almost systematically so, in such a way as to raise the question whether Israel's election was actually an election to suffering. In general, different peoples and different individuals have different degrees of giftedness and resources and different degrees of oppression and hurt. While much of that unfairness can be traced to human agencies, much of it cannot, and the implication seems to be that God either is not very interested in fairness or is not in a position to ensure it. What happens in the story in Joshua, then, is that Yahweh utilizes history in its unfairness, getting hands dirty rather than stay unsullied in a heavenly environment in which there would be no accusation of unfairness but also nothing achieved. Admittedly such theological comments are modern observations regarding an issue that does not seem to have been a problem for authors in either Testament. There is very little evidence that any of them were embarrassed by the story in Joshua. The New Testament speaks only positively about him and about the Israelites taking of the land (see Acts 7; Heb 11).<sup>43</sup> The point is related to the distinctively modern and Western nature of our preoccupation with theodicy. While other cultures have assumed that life should be fair (Israel indeed did), the nature and extent of our preoccupation with the questions raised by its unfairness is a modern and Western one.

To put it another way, acceptance of (at least a story of) the annihilation of the Canaanites is an instance of the First Testament's living with the penultimate.<sup>44</sup> But the notion of living with the penultimate presupposes that we believe in the ultimate. The First Testament lives with

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<sup>42</sup> Preuss, *OT Theology* 1:294.

<sup>43</sup> See M. Walzer, "The Idea of Holy War in Ancient Israel," *The Journal of Religious Ethics* 20 (1992-93): 215-28 (see p. 215), against D. Jacobson, *The Story of Stories* (New York: Harper, 1982), p. 37 (cf. Wyschogrod, *The Body of Faith*, p. 218).

<sup>44</sup> Knierim, *The Task of OT Theology*, pp. 107, 129-30.

a tension between what was designed from creation and what is possible given the obduracy of the human will, and with the same tension between what will be at the End and what is possible now given that obduracy.

Indeed, Yahweh makes history's "unfairness" the means of putting *mishpat usedaqah* into effect. First, although Joshua does not describe Israel's entering into possession of the land of Canaan as an act of *mishpat usedaqah*, it could have done so. Exodus-Joshua imply "that Israel's oppression of the Canaanite nations and Israel's liberation from Egyptian oppression are equally just." They justify both liberation of and oppression by the same people. "Justice is what serves Israel's election by and covenant with Yahweh rather than and regardless of a principle of justice that is the same for all nations."<sup>45</sup> Exodus 3:7-8 makes the point vividly. In this connection *mishpat usedaqah* are thus not universalizable principles. But Yahweh is also said to exercise *mishpat usedaqah* elsewhere than in the story of Israel. All Yahweh's work is done in faithfulness, Yahweh loves *sedaqah umishpat* and the world is full of Yahweh's *khesed*. Psalm 33 follows up these observations with a look back to creation, but even without this its statements have universalized Yahweh's *mishpat usedaqah*. Yahweh is committed to decisive action in the context of a relationship that means doing right by the other party, and is committed in this respect to the whole world. Yahweh decides for the world with *sedeq* (Ps 9:9 [8], cf. Ps 98:9; the verb is *shapat*). The foundation of Yahweh's throne, the throne from which Yahweh rules all the world, is *sedeq umishpat*, and the heavens proclaim Yahweh's *sedeq* (Ps 97:2).

Following H. H. Schmid, M. Weinfeld saw this exercise of *mishpat usedaqah* as the imposition of order on the cosmos,<sup>46</sup> but this formulation understates the relational implications of *mishpat usedaqah*. On the other hand, Weinfeld usefully emphasizes three moments of Yahweh's imposition of *mishpat usedaqah* in the First Testament, creation, the origins of Israel, and the final judgment.<sup>47</sup> One would expect there to be some coherence about these acts of *mishpat usedaqah*. If they must be moments when Yahweh acts decisively to do right by those to whom Yahweh is committed, that has to apply to the world and not just to Israel.

A second way the unfairness of history is harnessed to *mishpat usedaqah* is then that Israel's occupation of Canaan forms part of a story about the blessing of the world and about Yahweh's bringing *torah* and *mishpat* to the world (Isa 2:2-4). Paul hints at this point in his midrash on the First Testament in Rom 9 - 11, where he includes some discussion of God's fairness. He, too, assumes that God has always been concerned for the blessing of the whole world and that the people of Israel is the means of this intention becoming realization. The Pharaoh of the exodus then acts as a kind of necessary foil to Israel in the story of how that realization comes about. Gentile salvation is thus achieved only through Gentile loss.

The Canaanites might be looked at the same way. Genesis assumes that for the world to regain blessing it is necessary for Israel to flourish.

<sup>45</sup> *The Task of OT Theology*, p. 97.

<sup>46</sup> *Social Justice in Ancient Israel and in the Ancient Near East*, p. 20, referring to H. H. Schmid, *Gerechtigkeit als Weltordnung* (Tübingen: Mohr, 1968). Cf. Knierim, *The Task of OT Theology*, e.g., p. 15.

<sup>47</sup> *Social Justice in Ancient Israel and in the Ancient Near East*, pp. 5, 21.

Deuteronomy assumes that for Israel to flourish it is necessary for the Canaanites to be removed. Knierim suggests that Deuteronomy should have trusted in the inherent power of Israel's theological convictions. If they cannot withstand such pressures, are they worth annihilating for? In the long run they showed themselves able to do this, but perhaps Deuteronomy was only being realistic in recognizing the power of Canaanite temptation when Israelite faith in Yahweh was a relatively newly-budded flower.

The fate of Canaan is subordinate to the promise to Israel. But the promise to Israel is in turn subordinate to the fate of the whole world. A temporary unfairness that discriminates for Israel and against Canaan is designed to give way to a broader fairness. Election is exclusive in the short-term, but designed in due course to benefit others than its short-term beneficiaries. This does not imply that Israel ever ceases to be God's first love, but it could imply that other peoples can be equally loved in their own way.